IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 653/2006
(Sampat Lal Vs. State of Rajasthan)

Date of Order : 14/11/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Manish Shisodia for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 4.4.2006 passed by Additional Sessions Judge No.2, Bhilwara (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 20.2.2006 passed by Additional Chief Judicial Magistrate, Shahpura (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the petitioner and the public prosecutor for the State. Perused the orders impugned.

It appears from the orders impugned that an

assembled Kisan Gadi commonly known as "Dugga" caused accident, for which a crime report being FIR No.05/2006 was registered. The said Kisan Gadi was seized by the police in the said crime report. The petitioner, claiming himself to be the owner of the said Kisan Gadi, filed an application under Section 457 Cr.P.C. seeking interim custody of the same. By order dated 20.2.2006, the trial court dismissed the application on the ground that the petitioner has no registration certificate with regard to said Kisan Gadi.

It appears that Kisan Gadi is not a vehicle registrable under the provisions of Motor Vehicles Act an therefore, has not been registered. The Kisan Gadi is assembled by putting wheels and Engine and therefore, such a vehicle cannot be permitted to ply on the roads. There is no one except the petitioner to claim the custody of the said Kisan Gadi. This Court in number of cases, on similar facts and circumstances, directed to release the Kisan Gadi in favour of the applicants therein by directing the applicants to give an undertaking before the Court that they would dis-mental it and shall not re-assemble and use it on the roads.

Keeping in view the fact that Kisan Gadi is not registrable and no registration certificate is likely to come even if

the petitioner is asked to produce the same, and therefore, in my view, the said Kisan Gadi deserves to be released in favour of the petitioner on his furnishing an undertaking that he would dis-mental the same and shall not re-assemble and use it on the roads.

In this view of the matter, the trial court is directed to release the Kisan Gadi in favour of the petitioner which has been seized in FIR No. 05/06 on the petitioner furnishing an undertaking before the trial court that after taking the custody of the said Kisan Gadi, he would dis-mental it and shall not re-assemble and use it on the roads.

The petition is accordingly disposed of.

(H.R.PANWAR),J.

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